IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1276 of 2007

Rajendran alia Vatta Rajendran .. Petitioner

Vs.

1. The Commissioner of Police
City Police Office
Huzur Road, Coimbatore City
Coimbatore-18.

2. The State of Tamilnadu
rep. by its Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai-9. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein.

For Petitioner : Mr.O.A.Dinesh Kumar
For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The first respondent herein clamped an order of detention as against the petitioner/detenu, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Challenging the abovesaid detention, the detenu himself has preferred this Habeas Corpus Petition seeking a writ of habeas corpus to call for the records of the first respondent herein pertaining to the

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detention order made in C.NO.48/G/IS/2007, dated 6.6.2007, to set aside the same and to direct the first respondent to produce him, now confined at Central Prison, Coimbatore, before this Court and to set him at liberty.

3.1. The order of detention dated 6.6.2007 was passed on the basis of ground case in Crime No.559 of 2007 for alleged commission of offence under Sections 397 and 506 of the Indian Penal Code, complaint of which was given by one V.Raman. The allegation against the detenu was that on 25.5.2007, when the complainant was proceeding at Kempatty Colony 5th Street, the detenu intercepted and demanded money and when he refused, the detenu took a knife, brandished the same, threatened the complainant and took Rs.150/- and wrist watch. On raising hue and cry, the people rushed there, the detenu took stones and threw them on the public. On seeing the atrocious activities, the people ran helter shelter. At that time, the police personnel who were on routine rounds overpowered the detenu and apprehended him.

3.2. That apart, the detaining authority also took note of the four adverse cases pending against the detenu, viz., Crime Nos.890 of 2004, 605, 690 and 1032 of 2005 all registered on the file of Bazaar Police Station for the offences punishable under Sections 75(1)(c) and 75(1)(b) of TNCP Act, 506, 379, 380 of IPC.

3.3. Considering these activities of the detenu are prejudicial to maintenance of public order, the detaining authority passed the impugned order. The detenu was declared as an "Goonda" and was kept in custody at Central Prison, Coimbatore.

4. Mr.O.A.Dinesh Kumar, learned counsel for the petitioner submits that the order of detention was passed by the first respondent mechanically, even before formulating the grounds of detention. To substantiate the said contention, the learned counsel for the petitioner pointed out that the order of detention is dated 6.6.2007, whereas the grounds of detention were formulated only on 7.6.2007.

5. We have perused the records produced before us. It is apparent on the face of the records that the grounds of detention were formulated only on 7.6.2007, whereas the order of detention was passed on 6.6.2007, which, in our considered opinion, is not possible. Therefore, even before the formulation of the grounds of detention, the detention order was passed, which vitiates the order of detention.

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For the aforesaid reason, we are inclined to allow this petition. The order of detention dated 6.6.2007 is quashed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

sasi

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1.THE SECRETARY TO GOVERNMENT
PROHIBITION AND EXCISE DEPARTMENT
STATE OF TAMILNADU
FORT ST.GEORGE, CHENNAI-9.

2.THE COMMISSIONER OF POLICE
COIMBATORE CITY.COIMBATORE.

3.THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4.THE SUPERINTENDENT OF CENTRAL
PRISON, COIMBATORE.

5.THE JOINT SECRETARY TO GOVT,
PUBLIC (LAW & ORDER) DEPARTMENT,
FORT ST GEORGE, CHENNAI.

+ ONE CC TO MR. O.A. DINESH KUMAR, ADVOCTE SR.NO. 69064

NTK (CO)

sg 05/12/07

H.C.P.No.1276 of 2007

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